

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.09.2006

CORAM

THE HONOURABLE MR. JUSTICE P.SATHASIVAM

AND

THE HONOURABLE MR. JUSTICE S. MANIKUMAR

HCP.No.660/2006

Ramachandran

.. Petitioner

Vs

1.The State of Tamil Nadu
Rep.by its Secretary to Government,
Prohibition and Excise XII Department,
St George Fort, Chennai 600 009.

2.The District Magistrate and District Collector,
Kancheepuram District,
Kancheepuram.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a writ of habeas corpus directing the respondents to produce the detainee viz., Chinnaponnu @ Valli, wife of Rajkumar (Irusammal), who is now detained in Special Prison for Women, Vellore in pursuance of the detention order passed by the 2nd respondent in B.D.F.F.G.I.S.V.No.25/2006 dated 30.6.2006 before this Court, call for the records set-aside the order and set the detainee at liberty forthwith.

For Petitioner : Mr.S.Swamidoss Manokaran

For Respondents: Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor

ORDER

(Order of the Court was made by P. SATHASIVAM, J.)

The petitioner, who is the nephew of the detainee, by name Chinnaponnu, who is detained as "Bootlegger" as contemplated under section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, drug offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, slum Grabbers and Video Pirates Act 1982 (Tamil Nadu Act 14/1982) by the impugned detention order dated 30.6.2006, challenges the same in this petition.

2. Heard the learned counsel for the petitioner as well as well as the learned Additional Public Prosecutor, appearing for the respondents.

3. At the foremost, the learned counsel for the petitioner submitted that inasmuch as the detaining authority failed to consider the pre-detention representation dated 19.06.2006 from the daughters of the detainee, the impugned detention order is to be quashed. Elaborating the above point, the learned counsel for the petitioner has placed a copy of the representation dated 19.6.2006 sent by R.Kalpana, R.Kanchana, R.Ravitha, the daughters of Chinnaponnu, the detainee in this case. The said representation was addressed to the Detaining Authority, viz., the District Collector, Kancheepuram District. The learned counsel also placed acknowledgement card duly received by the Office of the Collectorate.

4. In addition to the above information, the learned counsel has brought to our notice that in the post detention representation dated 8.7.2006, one Rajkumar, husband of the detainee, made a representation to the Government wherein there is a specific reference to the representation dated 19.06.2006 addressed to the District Collector-the Detaining Authority. In the light of the above mentioned information and the particulars placed before this Court, we are satisfied that the daughters of the detainee had submitted a representation on 19.6.06 to the Detaining Authority. However, the same has not been considered by the Detaining Authority.

5. In this regard, it is useful to refer a Division Bench decision of this Court reported in (2006) 1 M.L.J.(crl.) 131 (P.M.S.Mohiadeen Sahib Vs. State of Tamil Nadu represented by the Secretary to Government, Public (SC) Department, Chennai and others). In similar circumstances, after finding that pre-detention representation was received by the concerned Detaining

Authority and also taking note of the fact that the pre-detention representation had been referred to in the subsequent representation received after passing of the detention order, the Division Bench after finding, held that the Detaining Authority ought to have verified the earlier representation and passed appropriate order after due consideration, failure to do so, vitiates the quashing of the detention order.

6. In view of the identical factual aspects mentioned above, we are of the view that the said decision is applicable to the case on hand.

7. In these circumstances, the impugned order of detention is set aside and the petition is allowed. The detainee is directed to be set at liberty forthwith from the custody unless she is required in some other or cause.

ap

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

- 1.The Secretary to Government,
Prohibition and Excise XII Department,
State of Tamil Nadu,
St George Fort, Chennai 600 009.
- 2.The District Magistrate and District Collector,
Kancheepuram District, Kancheepuram.
3. The Superintendent,
Special Prison for Women,
Vellore.
4. The Public Prosecutor, High Court,
Madras.
5. The Joint Secretary to Government,
(Law & Order) Department,
Fort st George, Chennai 9.

+ 1 cc to Mr. S. Swamidoss Manokaran, Advocate SR No. 40735

KLT(CO)
SR/13.9.2006

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